

REMARKS

I. STATUS OF THE CLAIMS

Claims 14-22 and 23 are cancelled.

In view of the above, it is respectfully submitted that claims 1-5, 9-13, 24 and 25 are currently pending.

II. REJECTION OF CLAIMS 1-13 AND 24 UNDER 35 USC 103 AS BEING UNPATENTABLE OVER AN INTERNET ARTICLE ENTITLED, "MANUFACTURING PROCESS IMPROVEMENT: THE ROLE OF VISION SYSTEMS," BY AMIR M. HORMOZI (HORMOZI)

Hormozi describes vision systems. According to Hormozi, a goal of machine vision is to electronically achieve visual perception. Hormozi indicates that a vision system replaces a need for human sight. Hormozi describes how a vision system functions by stating that such a system relies on electronic processors to acquire and analyze images seen through an imaging device such as a solid-state camera. Light passes through the camera lens, and the image is broken down into individual picture elements called "pixels." Each pixel has an analog voltage level that represents its light intensity, according to Hormozi. A computer then converts the analog voltage values for the entire image into their corresponding digital values. As a result, according to Hormozi, a digital pixel array that can be analyzed and interpreted by a computer is produced. According to Hormozi, the vision system's computer interprets a visual image and tells a robot what actions to perform as a result of what has been "seen." See Hormozi, page 3, first paragraph.

As defined by currently amended independent claim 1, the present invention is directed to a tele-inventory system for counting the number of commodities and/or checking the expiration dates of the commodities. Applicants respectfully submit that the present invention, as defined by currently amended claim 1, is not obvious in view of Hormozi.

All elements must be disclosed in the prior art. M.P.E.P. § 2143 sets forth the basic requirements for the Patent and Trademark Office to establish *prima facie* obviousness as follows:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

In particular, Applicants respectfully submit that Hormozi fails to disclose or suggest, "counter means for counting the number of images ... which... have been labeled with the predetermined marks... whereby the operator is able to make an inventory of the object commodities at the remote management apparatus." It is well known that "to establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. M.P.E.P. § 2144.03. Accord. M.P.E.P. § 706.02(j).

Hormozi is merely concerned with achieving visual perception of objects and is not concerned with a tele-inventory system, as recited in claim 1. Although Hormozi references "inventory tracking," no information is provided or suggested regarding a tele-inventory system, as described in claim 1. Further, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure. M.P.E.P. § 706.02(j), See MPEP § 2143 - § 2143.03.

Applicants respectfully submit that the Examiner has simply engaged in improper hindsight in the obviousness rejection.

Further, the Examiner states that, "Official Notice is taken that the dependent features recited, e.g., camera/instruction-receiver-transmitter means, used by Applicant has been common knowledge in the art." See Office Action, item 3, at page 2 [sic].

Applicants respectfully traverse the Examiner's statement and requests that the Examiner produce authority for the statement. Applicants specifically point out the following errors in the Office Action.

First, the Examiner uses common knowledge as the principal evidence for the rejection. As explained in M.P.E.P. § 2144.03(E):

any facts so noticed should . . . serve only to 'fill in the gaps' in an insubstantial manner which might exist in the evidentiary showing made by the Examiner to support a particular ground of rejection. It is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principal evidence upon which a rejection was based.

Second, the noticed fact is not considered to be common knowledge or well-known in the art. The claim features are not of notorious character or capable of instant and unquestionable demonstration as being well-known. Rather, the feature is unique to the present invention. See M.P.E.P. § 2144.03(A) ("the notice of facts beyond the record which may be taken by the Examiner must be 'capable of such instant and unquestionable demonstration as to defy dispute'").

Third, there is no evidence supporting the Examiner's assertion. See M.P.E.P. § 2144.03(B) ("there must be some form of evidence in the record to support an assertion of common knowledge").

Applicants respectfully submit that if the Examiner is basing the rejection on personal knowledge, the Examiner is required under 37 C.F.R. § 1.104(d)(2) to support such an assertion with an affidavit when called for by the Applicant. Applicants respectfully request the Examiner to support such assertion with an affidavit.

The above comments are specifically directed to claim 1. However, it is respectfully submitted that the comments would be helpful in understanding various patentable differences of various other claims over the cited references.

In accordance with the foregoing, claim 1 has been amended. No new matter has been added. Support for amended claim 1 may be located throughout the specification, for example, at page 16, lines 18-22. Claims 6-8 have been cancelled. Accordingly, claims 1-5, 9-13, 24 and 26 are pending and under consideration.

Applicants respectfully submit that claim 24 is patentable over Hormozi, as Hormozi fails to teach or suggest, "imaging an item; and remotely conducting inventory of the item based on said imaging," as recited in claim 24.

III. CONCLUSION

In view of the above, it is respectfully submitted that the application is in condition for allowance and a Notice of Allowance is earnestly solicited.

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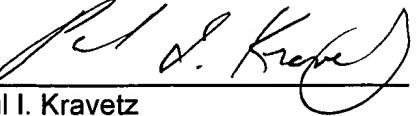
If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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